



KAISERSLAUTERN LEGAL INFORMER

KMC RETIREMENT SERVICES OFFICER TO RETIRE



CSM (Ret.) John E. Haldeman, who has served USAG-Kaiserslautern as its Retirement Services Officer, Casualty Affairs Officer, and Chief of its Military Personnel Division, will retire later this year. He will be greatly missed by legions of admirers.

by Steve Smith

John Haldeman is a Kaiserslautern institution. For the last 22 years he has helped thousands of military retirees and their survivors from all over Europe apply for retirement and survivor benefits. But come December 31st, this dedicated military retiree on whom so many have come to depend will retire from the civil service. He will leave big boots to fill.

Born in 1938 in the coal mining town of Mahanoy City, near Scranton, PA, John joined the Army in 1956. "It was join the coal mines or join the Army," says John, "and the Army was very good to me." He retired as a Command Sergeant Major in 1986, after 30 years of dedicated service.

John began a second career as a civil servant in 1987 in K-town, where he served as the Retirement Services Officer, Casualty Affairs Officer, and Chief of the USAG-Kaiserslautern Military Personnel Division, which is responsible for passports, ID cards, officer and enlisted records and reassignments, in & out processing, promotions, and much more. He has also served as Community Check Control Officer and Army Emergency Relief Officer. But he is best known for his casualty assistance work. Legions of widows and other survivors have beaten a path to his door seeking his help in applying for benefits. When Soldiers die at Landstuhl, John is always there to assist the next of kin. His cell phone goes off morning, noon, and night. *[continued on page 12...]*

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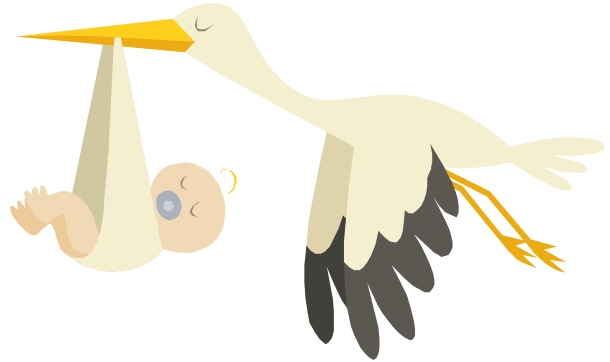
*United States Army
Judge Advocate
General's Corps -
America's Oldest
Law Firm*

~~Born In The USA~~ Deutschland

Legal tips on having a child in Germany...

by Joerg Modelmog

Having a baby overseas presents extra challenges for new parents. While they might be familiar with the paperwork process involved in bringing a new life into being Stateside, the “foreign factor” raises all kinds of questions. Where do I get a birth certificate for my child? Will my child have US citizenship? Will Germany honor my name choice for my child?



Your U.S. citizen child born overseas is not required to have his/her birth registered with any state, county, or municipal authority in the United States. There are other ways of registering such births.

In the Kaiserslautern Military Community (KMC), it is a well-established practice for the US authorities to release information on babies born at Landstuhl Regional Medical Center to the German Office of Vital Statistics (“*Standesamt*”) in Landstuhl for further processing, in accordance with Article 15 of the Supplementary Agreement to the NATO Status of Forces Agreement. As a result, not only can you obtain a US hospital report of birth but you can also obtain an actual German certificate of decent (“*Abstammungsurkunde*”) from the *Standesamt*. International birth certificates in the English language can also be issued by the *Standesamt*. German authorities do not produce certified copies of a birth certificate, but they will issue new birth certificates whenever required and they will generate as many of them as are needed.

The child's name may be picked in accordance with the laws governing the child's nationality. In order to protect the child from being subjected to humiliation and ridicule, German procedural law prohibits derogatory names and discourages the creation of any new names, as too much “fanciness” is not considered to be in the best interest of the child. You would have difficulty in Germany if you tried to name a boy “Sue.”

Furthermore, distinguishing suffixes like “Jr.” or “III” cannot be added to the name on the German birth certificate. However, such suffixes may be added later on, when the US General Consulate issues the American equivalent of a birth certificate, which is known as a “Consular Report of Birth Abroad of a Citizen of the United States of America.” This document is referred to as Form FS-240. The form establishes proof of the child's US citizenship. The fees for a Consular Report of Birth Abroad are regulated by law in Title 22, Chapter I, Subchapter C, Part 22 of the Civil Code of Federal Regulations (CFR) §22.1. The current fee is \$65.00 (see <http://www.gpoaccess.gov>).

Form FS-240 is issued on specially designed safety paper with pre-printed serial numbers; multiple copies of the form cannot be issued. In order to obtain a replacement document for a lost, stolen, or mutilated FS-240, you will have to submit a notarized affidavit, concerning the loss/theft/mutilation of the FS-240 with a written request to the Department of State, Passport Services Office, in Washington, DC, so a “Certification of Report of Birth” (Form DS-1350), or multiple copies of the form, can be issued.

Simply being born in Germany or possessing a German birth certificate does NOT establish entitlement to German citizenship. One of the baby's biological parents has to be a German citizen to pass German citizenship on to the child.

[continued on page 3...]

Born in Deutschland [continued...]

When one of the child's parents is a German citizen and the other is a US citizen, their child will possess dual (German/US) citizenship for life. Such children will be able to enjoy "the best of both worlds."

The situation is different in cases where neither parent possesses German citizenship but both have been ordinary residents of Germany, holding an alien resident permit, for at least eight years. In these cases, the child will be entitled to limited dual citizenship and must renounce one of them at age 18. However, these rules do not apply to personnel with NATO SOFA status, as they never receive a German alien resident permit; instead they receive a SOFA stamp [or the blue laminated SOFA card] to document their "temporary" status in Germany.

In order to obtain a Social Security Number (SSN) for your child, you need to submit an application on Form SS-5-FS (downloadable at <http://www.ssa.gov>). A SSN consists of nine digits; the first three digits are a geographical code (Area Number), the next two digits are called the Group Number, and the remaining four digits are the Serial Number.

Finally, as of July 2, 2001, the State Department requires both parents' consent to obtain passports and visas for travel of children under age 14 as provided by Section 236, Public Law 106-113. If one parent is unavailable to sign the application, a signed letter or statement from the absent parent consenting to the travel must accompany the application. The intent of this change is to lessen the chance of one parent abducting his or her child without the consent of the other parent, using the child's US passport to escape with the child.

If you have further legal questions related to your child being born abroad, you should make an appointment to see a legal assistance attorney by calling DSN 483-8848 or Civilian 0631-411-8848.

New Additions to Our JAG Family: *[October was a busy month!]*

- Zachary Oliver Oppel, son of CPT Mark Oppel and his wife, Sarah, born October 16th.
- Samuel Joshua Hill, son of CPT Carl Hill and his wife, Karina, born October 26th.
- Andrew Jaehyun Nelson, son of MAJ Arby Nelson and his wife, Sinkyung, born October 27th.
- Addison Kate Howard, daughter of CPT Ryan Howard and his wife, Julie, born October 30th.

See the related article on page 4...

Hails & Farewells: This issue we bid farewell to our Chief of Military Justice, MAJ Amber Williams, our Fiscal Law and Ethics Attorney, Jeannine Smith, the NCOIC of the KLSC, SFC Sabrae Bell, and Court Reporter SGT Donicia Mikula-Mitchell. We welcome our new Paralegal Specialist, PFC Christopher Jancek, and our volunteer, Rick Schwartz, who is an attorney on sabbatical from the law firm of Skadden, Arps, Slate, Meagher & Flom.



KAISERSLAUTERN LEGAL SERVICES CENTER

Building 3210 Kleber Kaserne

Legal Assistance 483-8848

Tax Assistance 483-7688

Claims 483-8414/8862

International Affairs 483-8854

Trial Defense Service 483-8165

[Civilian: 0631-411-XXXX]

Administrative Law 484-7450

Criminal Law 484-8311

[Civilian: 0631-413-XXXX]



Cross-training: Air Force JAG Captain Kelby Kershner, Chief of Preventive Law & Legal Assistance at the 86th Air Wing Law Center on Ramstein Air Base, and Army JAG Captain Erik Lapin, Chief of Claims at the KLSC, came up with the idea of a cross-training session for Army & Air Force attorneys serving the KMC.



Our first cross-training session took place on October 20th, and began with lunch in the Sports Bar of the new KMCC, after which we moved to the Ramstein courtroom to discuss family law issues. We plan to meet quarterly. Our next session will cover tax issues.

A Legal Documentation Checklist for New Parents...

by MAJ Arby Nelson

Based on my recent experience as a new father, here are the steps required to obtain "legal documentation" for infants born at Landstuhl Regional Medical Center (LRMC) to parents who are both US citizens:

1. Receive discharge papers from LRMC. If your child remains at LRMC for a period of time after birth, you must wait until the child's final discharge to obtain discharge papers.
2. Take the discharge papers to the Birth Registration Office at LRMC [DSN 486-6115 or Civilian 06371-86-6115], and obtain a typed AE Form 40-400B, Report of Birth.
3. Take the original typed AE Form 40-400B to the ID Card/DEERS Office in Building 3245 on Kleber Kaserne [DSN 483-7662 or Civilian 0631-411-7662] and enroll the child in DEERS. Receive and verify DD Form 1172, Application for Uniformed Services Identification Card DEERS Enrollment.
4. Go to the Tricare Office in Building 3245 on Kleber [DSN 483-6358 or Civilian 0631-411-6358], and complete the Tricare Overseas Program Enrollment Application to enroll your child in Tricare.
5. Obtain four passport photos of your infant. You will need two photos for a no-fee passport and two photos for a regular tourist passport. The photo lab in Building 3266 on Kleber [DSN 483-7578 or Civilian 0631-411-7578] will make passport photos. Appointments are necessary. Photo appointments must be made using www.vios.army.mil. Hint: the Passport Office will issue you a memo to take to the photo lab that states you are authorized official passport photos.
6. Go to the Passport Office in Building 3245 on Kleber [DSN 483-8892/7659 or Civilian 0631-411-8892/7659] and apply for a Consular Report of Birth Abroad of a Citizen of the United States of America (Form FS-240), Regular Tourist Passport, and No-fee Passport. Appointments are necessary. Numerous documents are required. Call the Passport Office to ask for a specific list of required documents. Generally, the Passport Office will require the original typed AE Form 40-400B (or German certificate of descent—a.k.a. "Abstammungsurkunde"), a money order for \$150.00, both parents' passports, a certified copy of the parents' marriage certificate, and both parents must be present (or one parent must bring a special power of attorney from the absent parent).
7. Upon receipt of the child's Birth Certificate, go back to the Passport Office in Building 3245 on Kleber and apply for a Social Security Number (SSN) for the child.



Editor's note: you will need a SSN to claim the child as a dependent on your federal income tax return. If you are expecting a big refund and do not have the SSN yet, you can file without the dependency exemption for the child and get some of your refund, then amend the return later (using Form 1040X) when you receive the SSN for the child, claim the exemption, and get the rest of your refund.

Tracing America's National Origins in Our Own (German) Back Yard...

by Steve Smith

Last December, while celebrating Christmas with my family in Colonial Williamsburg, Virginia, I spent a memorable day touring the Yorktown battlefield, to get a better sense of how America became a nation. Every schoolboy is taught that Yorktown was the climactic battle of the long and bloody American Revolution, that Lord Cornwallis was forced to surrender after a protracted siege there in the fall of 1781, and that the British subsequently withdrew their remaining troops from the colonies and ended the war by signing the Treaty of Paris in 1783. I wanted to find out how the siege was fought, and how much help our French allies gave us.

I discovered that the French had a lot more to do with our victory than most Americans like to admit. For starters, the French fleet under Admiral de Grasse prevented the British fleet from resupplying Cornwallis. In addition, French land forces under Generals Rochambeau and Lafayette played a decisive role in the battle. They were experts in the European art of siege warfare, and taught their American colonial cousins how to gradually tighten the noose around the British forces and their Hessian mercenary allies.

The initial siege line was too far away from Yorktown. The Americans and the French knew they had to create a second siege line closer to the British defenses for their artillery to have the desired effect. Two British redoubts had to be stormed and taken if that second siege line was to be established. Redoubt #10 was taken during the night of October 14th by a combined force of 400 American and French troops commanded by Lieutenant Colonel Alexander Hamilton. They attacked by night with unloaded muskets (lest one go off and spoil the surprise) and fixed bayonets, and made mincemeat of the 60-70 defenders. A gallant American NCO who was wounded in the attack later received a purple heart-shaped badge bearing the word "Merit," which was the precursor of the Purple Heart medal. Redoubt #9 was taken by a French force of 400 chasseurs and grenadiers. Redoubt #9 was more heavily defended, but the result was the same. When the sun came up on the morning of the 15th, the British found themselves literally "under the gun," surrounded by French and American artillery. Four days later, Cornwallis was forced to surrender.

At the Yorktown Visitor's Center I picked up a copy of Jerome A. Greene's comprehensive account of the battle, *The Guns of Independence*, to continue my study. What I did not realize until I returned to Germany was that many of the "French" soldiers who took part in the assault on Redoubt #9 were in fact German neighbors of mine (several generations removed). They were serving in the Régiment Royal Deux-Ponts, under the command of Colonel Christian de Forbach, Comte de Deux-Ponts. ["Deux-Ponts" is French for "Zweibrücken."] Things got pretty ugly in the attack on Redoubt #9, with so many different languages and a welter of uniforms. It was hard to distinguish friend from foe in the dark. There was no small amount of fratricide that fateful night.

So we had Germans (from the Palatinate) attacking Germans (from Hessen) so that the French could curb British hegemony in the new world, and as a result the Americans finally achieved the independence we still enjoy today. Go figure.

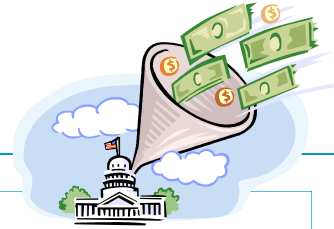
The rest is history...



The author with a re-enactor from the Régiment Royal Deux-Ponts, during a German-American event in Homburg, Germany, this fall.

End-of-Year Tax Planning

Getting ready for the 2010 tax season...



by Mark Christensen

At this busy time of year, most of us are thinking about our mission, deployments and redeployments, winterizing our homes and vehicles, and of course the holiday season. Filing our 2009 income tax returns is the furthest thing from our minds.

But a little advance planning now will help you be prepared in the new year when you receive your W-2 and 1099 forms in the mail (or electronically). Whether you prepare and file your return on paper (using a pencil and calculator), with a program on your home computer or an on-line service, or with the help of the professionals at your local tax assistance center, you will want to have everything in order to ensure your return is properly prepared.

Last tax season, the 21st TSC tax assistance centers on Kleber Kaserne and at Landstuhl prepared 2,930 federal state income tax returns at no charge, saving our filers almost \$400,000 in filing fees while generating over \$5.2 million in direct-deposit refunds. Most returns can be prepared quickly and accurately if you have the following information when you are ready to complete your return:

- ⇒ A Social Security card or number for each family member
- ⇒ All W-2 and 1099 forms, and any child care expense information
- ⇒ Direct deposit information (routing and account number) for your bank
- ⇒ All other information concerning your tax situation

Taxpayers with complicated returns should take extra time to ensure their documents are in order, and should always have a copy of their prior year tax return available so their tax preparer can make sure their income is reported properly and consistently. A tax return is “complicated” when it includes any of the following types of income:

- ⇒ Capital gain or loss from sale of stock, mutual funds or other capital asset (Form 1099-B)
- ⇒ Rental real estate income or loss, or sale of a rental property
- ⇒ Foreign earned income received or foreign taxes paid
- ⇒ Multiple state return situations

The 21st TSC tax assistance centers on Kleber Kaserne and at Landstuhl will open again in January to assist taxpayers in preparing and electronically filing their 2009 federal and state income tax returns. The Kaiserslautern Legal Services Center Legal Assistance Office continues to be available year round to assist with prior year tax issues and other tax matters. Watch the “Kaiserslautern American” and the next edition of this newsletter for more information on tax center opening dates and operating hours. Anyone with a tax question can always send an e-mail to tax@eur.army.mil and one of our income tax specialists will reply. In the meantime, take some time here, at the end of the year, to ensure all your tax information is accurate and can easily be located.

New Ways to File Your Claim On-Line



by CPT Erik Lapin

Important improvements have recently been made to the procedures for filing household goods and other transportation-related claims. Now, claimants may (and in some cases must) file their claims on-line.

The Personnel Claims Information Management System (PCLAIMS) allows Soldiers and Army civilian employees to file personnel claims against the government using the Internet. These claims include household goods claims, transportation-related claims, and claims that result from loss due to fire or flood at on-post quarters.

The Defense Personal Property Program (DP3) is an on-line program that allows you to track household goods shipments and file claims against the Transportation Service Provider (TSP). If you used DP3 to ship your household goods you will be required to use DP3 to file your claim. Filing against the TSP will afford you the opportunity to recover the full replacement value of the lost or damaged item.

PCLAIMS, by contrast, is only for filing directly with your military claims office and does not include the Full Replacement Value (FRV) Program for lost or damaged household goods. When filing with your military claims office, your recovery will be based on the depreciated value of the lost or damaged item.

DEFENSE PERSONAL PROPERTY PROGRAM (DP3)

Many service members, DoD civilians, and their families are now required to file their transportation-related claims on-line using the DP3 program. The DP3 program was designed to improve the moving process. It provides 24-hour access to personal property shipment information throughout the entire move. As mentioned above, by filing against the carrier you can be paid the full replacement value of the property. Before you can file a claim using DP3, you must have a DPS user account. You can create a DPS user account by going to www.move.mil website. To have your claim paid on the basis of FRV, you must file directly with the TSP within **9 months** of delivery. However, you must first file your notice of loss/damage within **75 days** of delivery. You can file your claim by logging into DPS and selecting the "CLAIMS" tab.

Under the FRV program, the TSP is required to replace any item that is lost or destroyed with a new item, or pay for the cost of a new item of the same kind and quality, without deducting for depreciation. The TSP is not required to replace items which can be repaired for less than the FRV of the item. If the TSP makes an unreasonable offer or fails to respond in 30 days, the customer may transfer the claim to the military claims office.

PERSONNEL CLAIMS INFORMATION MANAGEMENT SYSTEM (PCLAIMS)

The PCLAIMS program can be accessed by going to www.jagcnet.army.mil. You start by clicking the US Army Claims Service link and then click the PCLAIMS link. In order to use PCLAIMS you must have an Army Knowledge Online (AKO) account. [If you do not have an AKO account, please contact your local military claims office for assistance in filing your claim.] After accessing the PCLAIMS program, you will be asked to list all of your lost or damaged property, the purchase dates and costs, the replacement or repair costs, and which military claims office you want to have adjudicate your claim. You will also be asked to provide supporting documents. Supporting documents include government bills of lading (for transportation-related claims), estimates of repair, and photos of damaged property. These supporting documents can be scanned and added to the electronic claim. If you do not have a scanner, you can hand-deliver or mail your supporting documents to the military claims office you picked to adjudicate your claim. Claims office personnel can help with obtaining estimates of repair. Prior to submitting your claim, please make sure that your contact information is accurate. When filing your claim using PCLAIMS, remember that you must file your notice of loss with the claims office (electronically or in hard copy) within **70 days** of delivery and you have **two years** to finalize your claim.

If you have claims questions or need assistance filing your claim, contact the Kaiserslautern Legal Services Center Claims Office at DSN 483-8414 or Civilian 0631-411-8414.

“CLICK THROUGH” OR “CLICK WRAP” AGREEMENTS READ BEFORE YOU “ACCEPT”

by MAJ Cliff Barr

We have all come across a decision at some point to “Accept” or “Cancel” a download of software. Perhaps you were offered a decision to “Continue” or “Go back” when entering a website. Actually, when you “Accept” or “Continue,” you are doing so by accepting the terms and conditions established by the software or website developer, a so-called “click through” or “click wrap” agreement.



The terms and conditions of these “click through” agreements vary in length and complexity and may or may not be clearly displayed. Often the length or visibility of the agreement does not matter because most people never read “click through” agreements before accepting them. This is because whatever software we are downloading or website we are visiting when we encounter a “click through” agreement is something we really need or want, so cancelling the download or not proceeding to the website at that point is really not an option.

While acceptance of the terms and conditions may be necessary, it is important to be aware of what you have agreed to. Here are several common clauses that are included in many “click through” agreements and what they mean to you:

- 1) Confidentiality.** This clause is often included in “beta testing” agreements (agreements to try a software or website such as a new computer game before it is released to the general public). In this clause you are acknowledging that the software and content you are gaining access to is considered confidential (private) and that you will protect the privacy of the software and content under your control. If any portion of the software or content is released without authorization, you could be held liable for any resulting damages (which may be substantial).
- 2) Governing Law.** This clause sets out which law and courts will control any dispute that may arise over your use of the software or website. If you later have a claim against the software or website developer, you have agreed to use the courts listed in this clause, even if the courts are in another country.
- 3) Limitation of Liability.** Often this clause limits the software or website developer’s liability for all damages that may arise to around \$100 dollars. This is a very important clause to consider because if you incur some damages from your use of the software or website, you may only be able to recover up to \$100 dollars. Let’s say, for example, that you visit a retail or auction website, accept the “click through” agreement, and use your credit card information to make a purchase. Later the website is hacked (broken into) and your credit card information is stolen and used to make multiple purchases. In this situation the website can argue that its maximum liability to you is \$100 dollars, even if the website was hacked due to inadequate security.
- 4) Acceptance of third party software.** This is a clause that allows the software or website developer to use and download other software onto your computer. If you see this clause, you should think about what type of software might be downloaded and why. Some companies will download mal-ware (malicious software) onto your computer that is not visible to you, but uses your computer to track your internet usage and send reports back to the company. Sometimes this type of mal-ware can affect other systems on your computer, causing crashes, lockups, and slow response times, not to mention the serious invasion of your privacy that occurs once it starts sending reports on your internet activity.

Again, not all “click through” agreements contain the above clauses, but next time you run across one, take a few minutes to scan it. If you really know what the terms and conditions state, you will be aware of any potential dangers associated with using the software or website. After all, it never hurts to have knowledge of what you are agreeing to.

Editor’s Note: MAJ Barr is a JAG Reservist from Texas who spent two weeks providing legal assistance at the KLSC this fall as part of our Overseas Deployment Training (ODT) program.

DEBT COLLECTORS HOUNDING YOU? SEE US!

by CPT Matthew Freeman

Got debt? Who doesn't these days? Working your way out from under a pile of it is no picnic, even in the best of times. And it can become even more difficult when debt collectors start hounding you. That's where a legal assistance attorney can help.

If you are delinquent and do not pay anything on a US debt (e.g., a credit card) for a number of months, your debt is typically "charged off" and sold to a third party debt collector.

This is when you usually begin to receive numerous phone calls and letters, and also the point at which you should consult with an attorney. We can advise you of your rights under the Servicemember's Civil Relief Act (SCRA) and the Fair Debt Collection Practices Act (FDCPA), and address other legal issues such as jurisdiction and service of process.

The following examples are just a few of the protections debtors enjoy under the FDCPA:

- ⇒ Creditors must cease communication with a debtor if asked, or if they know you are represented by an attorney.
- ⇒ There are limited hours during which creditors may contact you, limited places at which they may contact you, and limited practices they may use if they are trying to find out your contact information from a third party.
- ⇒ Creditors cannot threaten legal action unless it is intended, and there are limits on repeated contact which is intended to annoy, abuse, or harass the debtor.

It is Army policy that Soldiers should pay their just debts, but creditors have to play by the rules, too. If you are being pestered by debt collection agencies, come see the experts at the Kaiserslautern Legal Services Center Legal Assistance Office, and stick up for your legal rights. For an appointment, call DSN 483-8848 or Civilian 0631-411-8848.



FIRST IN TEACHING SUPPORT! 21st TSC civilian attorneys from Kaiserslautern, Stuttgart, and Schinnen got their heads together at the 2009 USAREUR Client Services Continuing Legal Education conference in Willingen in November, where they taught classes on German family law, landlord-tenant law, & consumer law, the NATO SOFA, the European Union, early return of dependents, post-marital agreements, division of retirement benefits, and how to get ready for the 2010 tax season. From top left, Dutch Attorney-Advisor Jarin Nijhof, German Attorney-Advisor Joerg Modellmog, German Attorney-Advisor Werner Sukup, Kaiserslautern Chief of Client Services Mark Christensen, and 21st TSC Chief of Client Services Steve Smith.



The Ethics Corner...

by Jeannine Smith

***HOLIDAY OFFICE ETHICS TIPS:
FOR FEDERAL EMPLOYEES...***

As the song goes: *"it's the most wonderful time of the year..."* (is that song stuck in your head now?) Your Ethics Counselor says: *"it's the most complicated, busy, and confusing time of year because most of the things that people do around the holidays create a minefield of Ethics issues for Federal employees!"* Not so easy to put to music, but hopefully catchy enough that you'll be in tune with Ethics rules through the holidays and into the new year.

The holiday season brings to mind parties, open houses, and gift exchanges. But where are the parties being held – in the Federal workplace? And who is hosting the open house – a contractor? What about gift exchanges – can I give my boss a \$75 silk tie? The Standards of Conduct, including the topics that we've addressed in previous installments, apply every day of the year. The following summary of those rules, adapted from DoD Standards of Conduct Office guidance, should help ensure that you don't end up with coal in your stocking (metaphorically speaking, anyway).

Parties/Open Houses

Some holiday celebrations may occur on Government time, which is an official resource. The time taken for an actual event—perhaps a "pot luck" in the office, or a luncheon at a restaurant—typically is not an issue. The time taken to prepare for these events, however, can be. Supervisors may permit some use of duty time for preparations, but it should not become a significant part of any employee's duties. Contractor employees may not be tasked, or asked to volunteer, to organize holiday events. Also, be careful when it comes to Non-Tactical Vehicles (NTV), since NTVs must be used for official purposes only. Inappropriate uses in the context of workplace holiday celebrations include, but are not limited to, using NTVs to survey locations to host holiday parties, to deliver supplies and equipment to set up holiday parties, and to transport personnel to holiday party locations. Additionally, NTVs may not be used as part of a designated driver plan, since such use is not for official purposes.

So, let's say your office is having a holiday party during the non-duty lunch hour or after work, and each attendee is asked to pay \$5 (voluntarily) to cover refreshments and to bring a pot luck dish or dessert. For Federal employees, there are no issues – but what about contractors who work in the office with you? Contractor employees may attend, pay \$5, and bring food because these contributions are not considered to be gifts, but a fair share contribution to the refreshments. But remember, all contributions must be voluntary, so soliciting must be done with care to ensure there is no pressure. Also, ensure this is non-duty time for the contractor employees as well.

What about a party that cuts into duty hours? For Federal employees, the party would be considered their place of duty. For contractor employees, it's a little trickier. Although there should be no official encouragement for contractor employees to leave their workplace, it is appropriate to say that they will be a welcome part of an office celebration. Keep in mind that the Government usually may not reimburse a contractor for its employees' morale and welfare expenses, so the contractor has to decide whether to let its employees attend and forego payment for their time, or insist that they continue to work. If contractor employees are allowed to attend, the contractor must also decide whether it would pay its employees for that time, even though the Government would not reimburse it. It's a good idea to consult the contracting officer and Ethics Counselor before inviting contractor employees to a function during their duty hours.

All Federal employees and contractor employees are free to attend an off-duty, private party hosted by a Federal employee. Food, refreshments, and entertainment may be shared. Subordinates may bring hospitality gifts, such as a bottle of wine, but such gifts must not be lavish. Hospitality gifts from Federal employees are not strictly limited to \$10 in value, but that limit should serve as a guide. Hospitality gifts from contractor employees, however, are strictly limited to \$20 in value. Ideally, hospitality gifts will be consumable.

Federal employees may accept free attendance at a private party hosted by a contractor or a contractor employee if any of the following conditions apply. If none apply, the invitation must be declined or the employee must pay the fair market value of attendance.

-- The average cost per guest does not exceed \$20.

-- The invitation is based on a bona fide personal relationship with the contractor employee—not just a congenial office relationship.



MAJ Rob Abbott, Chief of Civil Law, presents Jeannine Smith with a parting (and ethical!) gift at a farewell luncheon in October, recognizing her outstanding service to 21st TSC as a Fiscal Law & Ethics Attorney over the last two and a half years. Jeannine took on new challenges at the European Regional Medical Command's Command Judge Advocate Office in Heidelberg in November.

(continued on page 11...)

- The party qualifies as a “widely-attended gathering”—that is, there will be more than 20 attendees representing a diversity of views and backgrounds, and the employee’s supervisor determines that it is in the agency’s interest for the employee to attend (requires a written ethics opinion).
- The contractor is having an open house, open to the public or to all Federal employees or military personnel in the area.
- The invitation is offered to a group or class that is not related to Federal employment, such as all GEICO, PFCU or USAA customers.
- You have been assigned to represent the Army at an official function (such as an embassy event).



Gift Exchanges

As a refresher, remember that Federal personnel may not accept gifts offered because of their official positions or offered by a “prohibited source.” A prohibited source is anyone who:

- Seeks official action by the employee’s agency;
- Does business or seeks to do business with the employee’s agency;
- Conducts activities regulated by the employee’s agency;
- Has interests that may be substantially affected by the employee’s performance of duty; or
- Is an organization composed of members described above.



AKA, a contractor.

Accordingly, a gift from a contractor would only be permissible if the value of the gift does not exceed \$20, and the recipient will not exceed the \$50 annual limit of gifts from one source (remember the \$20/\$20/\$10 exception?). Also, don’t forget the general rule that supervisors may not accept gifts from subordinates or Federal personnel who receive less pay, unless an exception applies. Some useful exceptions for the holidays:

- During holidays, which occur on an “occasional basis,” supervisors may accept gifts (other than cash) of \$10 or less from a subordinate.
- Supervisors may accept food and refreshments shared in the office and may share in the expenses of an office party.
- If a subordinate is invited to a social event at the supervisor’s residence, the subordinate may give the supervisor a hospitality gift of the type and value customarily given on such an occasion.

There are no legal restrictions on gifts given to peers or subordinates, however, common sense (and good taste) should apply.

So let’s put these rules to the test:

Group Gift to Supervisor – Not Allowed. Let’s say your office wants to give the office supervisor a gift, where everyone chips in and buys him that \$75 silk tie with the Kaiserslautern Football Club logo. Other than not knowing what he’d wear it with, the main problem is that group gifts (funded with solicited contributions) are permitted only for special, infrequent occasions, such as retirements. (By contrast, the holidays are considered an “occasional basis,” which means that group gifts to supervisors can’t be solicited, and individual gifts to supervisors cannot be valued at more than \$10.) As for contractor employees, you can’t ask them to contribute anything anyway, since that would be considered soliciting a gift from a prohibited source. Even if contractor employees volunteer to contribute cash, it may not be accepted because the \$20 exception does not apply to cash. (Are you getting flashbacks to previous “Ethics Corner” installments yet?)

Exchange of Gifts – Permitted if Done Properly. Your office, including the contractor employees, wants to exchange gifts at the party. Because it is difficult to have truly anonymous gift exchanges, it is advisable to restrict the value of such “random or exchanged” gifts to the authorized \$10 or less if personnel at different pay levels are involved. Gift exchanges in which employees purchase gifts for other employees whose names they draw at random are more troublesome and should be avoided. At the very least, the \$10 limit should be clearly established. The problem is, when drawing names, people may be inclined to stretch the \$10 limit, or feel pressured to purchase a certain type of gift if the individual they chose is their supervisor. Be mindful of appearances and avoid creating the perception of partiality or favoritism. Finally, remember that gifts from contractors, even during the holidays, may not exceed \$20; and as for gifts to contractors, recommend checking with the contractor first, since many contractors have codes of ethics that are similar to Federal rules, which may preclude the acceptance of gifts.

Please remember that this guidance only highlights common questions, and does not cover every situation. In general, while some limited use of Government resources and time is permitted, we must use common sense and good judgment to have a happy, safe, and ethical holiday season. If you have any questions, please contact the Administrative Law office or your servicing legal center.

On a personal note, this will be my last 21st TSC Ethics Corner, since I have moved to a different job within USAREUR. It has been an honor and a privilege to work with you, and I wish everyone all the best in the upcoming holiday season and beyond.



Ric L. Fiore, Director, Soldier & Family Legal Services (left) and John T. Meixell, Chief of the Legal Assistance Policy Division at the Office of The Judge Advocate General in Washington, DC (right), visited the KLSC in October, and toured the Warrior Transition Unit upstairs, where they were briefed by its Commander, CPT Mathews, and met with members of his staff who help wounded warriors find jobs and continue their educations.

KMC RETIREMENT SERVICES OFFICER TO RETIRE...

(...continued from page 1)

Whenever disaster has struck, John Haldeman has been there to help. When an Italian aerial acrobatic team crashed at Ramstein during Flugtag '88 killing 70 and injuring 346 spectators, John led the Army's casualty notification effort. When a Blackhawk crashed at Wiesbaden in 1993, killing the V Corps Deputy CG and three others, and when two Blackhawks from Giebelstadt were accidentally shot down over Northern Iraq in 1994 killing 26, John played a key role in the casualty assistance effort. As the attorney who was tasked with coordinating casualty assistance for the survivors in Giebelstadt, I memorized John's phone number. He was an absolute Godsend.

When asked what his most significant accomplishment has been, John was characteristically modest. "I was just doing my job," he said, although he considered his casualty assistance work his most important legacy. Successfully assisting widows and family members in getting their benefits and lives squared away after suffering a terrible loss brought him great professional and personal satisfaction.

John and his wife, Jacqueline, whom he met in Verdun, France, 50 years ago, will retire to North Carolina, where they will be closer to their two daughters, Francine and Peggy, both of whom followed their father into civil service careers. They are John and Jackie's proudest accomplishment.

Advice on military and civilian retirement benefits, survivor benefits, and casualty assistance will continue to be provided by John's successor, who has yet to be selected. Similar assistance is also provided by the legal assistance staff at the Kaiserslautern Legal Services Center. We will do our best to carry on John's good work, and take care of those for whom he cared so much.

Directions to Kleber Kaserne:

From Vogelweh, Ramstein, or Landstuhl take the A6 direction Mannheim. On your right you will see a large store called Möbel Martin. Make sure you are in the right lane as you take the Kaiserslautern Ost Ausfahrt (exit). Turn right as you leave the exit ramp and drive downhill until you reach the stop light. Turn right and proceed straight until the next stoplight. Turn left and you will be beside Kleber Kaserne. Follow the perimeter until you come to an open gate. Once you are on post, park in the Shoppette parking lot. Bldg. 3210 is directly across from the Shoppette. Enter Bldg. 3210 from the end door, closest to the Shoppette.

